

THIS CASE HAS NOT BEEN SET FOR ORAL ARGUMENT

**THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 25-3041

UNITED STATES OF AMERICA,

Plaintiff/Appellee,

v.

DAN EDWIN WILSON,

Defendant/Appellant.

**MOTION TO WITHDRAW CONSENT MOTION AT DOCUMENT
#2147097 TO DISMISS APPEAL**

The Appellant, **DAN EDWIN WILSON**, through undersigned counsel Carolyn Stewart, respectfully submits this Motion to Withdraw his Document #2147097 filed on November 25, 2025, to dismiss his appeal; and provides the following in support:

There is now a writ of certiorari at the United States Supreme Court at 25-6255 (posted on November 26, 2025) seeking to overturn this Court's ruling in *United States v. Thorpe*, 148 F.4th 768 (2025). Mr. Wilson now believes that this Court may have action it can take for relief depending on the outcome of *Thorpe* and therefore withdraws his consent to dismiss his appeal.

Mr. Wilson filed a timely appeal of an 18 U.S.C. § 2255 decision by the district court. The court below had denied that the January 6 Pardon Proclamation applied to contraband found during the January 6th search of his property and ordered him to report to prison on April 2, 2025, which he did. The Government had affirmed to the district court that the January 6th Pardon applied and had then written to this Court that it would not defend the lower court's decision. The undersigned requested via email on June 20, 2025, that the Government request a limited remand from this Court so that it could file below for a Rule 48(a) Motion where it would not further prosecute. The Government replied since the present appeal was under 28 U.S.C. Section 2255 rather than a direct appeal: "The question whether the government can move to vacate under Rule 48(a) when a conviction has become final is currently pending before the D.C. Circuit in *United States v. Thorpe*, No. 23-3027 (argued Nov. 5, 2024). Rather than moving for a remand now, when this question is open, we think it best to wait for an opinion in *Thorpe* and decide how to proceed then."

This Court ruled in *Thorpe* in October 2025 that a Rule 48(a) dismissal could not be used in a Section 2255 case. Undersigned prepared and filed Mr. Wilson's Appellant's Brief and Joint Appendix on November 5, 2025. On November 14, 2025, President Trump signed a new Pardon for Mr. Wilson. The Federal Bureau of Prisons released Mr. Wilson on November 14, 2025.

Should the U.S. Supreme Court take up the *Thorpe* case and hold that a Rule 48(a) dismissal can apply to dismiss the conviction under Section 2255, the logic applies that the Court may treat the Pardon the same as was done for January 6 defendants who were on direct appeal. Mr. Wilson will seek the relief granted to pardoned January 6th defendants who were on direct appeal (for any and all reasons). That relief was an order of vacatur by this Court with a remand for the court below to dismiss the case.

Because of this, Mr. Wilson requests that unless the Court decides at this time to grant him the relief of vacating his conviction and remanding for dismissal, that the Court withdraw his Motion to Dismiss his Appeal at Document #2147097 and hold the matter in abeyance until such time as either the U.S. Supreme Court denies the Thorpe Writ or decides on the issues.

CONCLUSION

WHEREFORE, appellant Dan Wilson respectfully requests that the Court withdraw his Motion to dismiss the appeal.

December 2, 2025

Respectfully submitted,

/s/ Carolyn Stewart

Carolyn Stewart

Appellant's Attorney

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) of the Federal Rules of Appellate Procedure. As measured by the undersigned's word-processing system used to prepare this motion, the motion contains 549 words.

2. This document complies with the type style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in a 14 point proportionally spaced roman style typeface (Times New Roman).

December 2, 2025

/s/ Carolyn Stewart
Carolyn Stewart
Appellant's Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically filed with the Clerk of Court using CM/ECF system which will send notification of such filing.

December 2, 2025

Respectfully submitted,
/s/ Carolyn Stewart
Carolyn Stewart
Appellant's Attorney